IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

WP(C).No. 28194 of 2007(F)

PETITIONER:

THOMAS BENOY,
AGED 18 YEARS, S/O.BENOY THOMAS,
35/617-A, VASANTHNAGAR COLONY ROAD,
PALARIVATTOM, KOCHI-25,
KERALA.

BY ADV. SRI.PAULSON THOMAS

RESPONDENTS:

1. **UNIVERSITY OF COCHIN,**
   REPRESENTED BY ITS REGISTRAR,
   COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY,
   COCHIN UNIVERSITY P.O.,
   COCHIN- 682 022.

2. **DIRECTOR,**
   I.R.A.A. UNIT (INTERNATIONAL RELATIONS AND ACADEMIC ADMISSIONS),
   COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY,
   COCHIN UNIVERSITY P.O., PIN-682 022.

3. **DEPARTMENT OF CELOS,**
   WORKING IN THE PHYSICS DEPARTMENT BUILDING,
   COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY,
   REPRESENTED BY ITS HEAD OF THE DEPARTMENT/ SUPERINTENDENT, COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY, COCHIN UNIVERSITY P.O.,
   COCHIN - 682 022.

BY ADV. SRI.A.A.ABUL HASSAN,SC,COCHIN UNIVERSITY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/10/2007, THE COURT ON 16/10/2007 DELIVERED THE FOLLOWING:

KSS

ANTONY DOMINIC, J.

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W.P.(C) No.28194 OF 2007-F
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Dated this the 16th October, 2007

J U D G M E N T

The prayer in this writ petition is to direct the respondents to admit the petitioner to the First MSc Photonics (Integrated Course) against any one of the general category seats remaining vacant. Petitioner also seeks a declaration that the 3 vacancies occurred due to discontinuation of course by reserved category candidates is available for general candidates.

2. After passing Plus Two CBSE examination with 85% mnarks, petitioner had applied for Common Admission Test 2007 for admission to Engineering Courses and MSc Photonics (Integrated Course), conducted by the 1st Respondent University and appeared for the Test. Petitioner's Rank number for B.Tech in the general quota was 5678 and that of Photonics, was 492. The 1st phase of counselling was over on 20.07.2007 when candidates having Rank upto 5000 were called. It is his contention that although for MSc Photonics a separate rank list was published, that was not made use of for counselling. Petitioner submits that unlike in the case of the first phase of counselling, in the 2nd phase of counselling, candidates were not given individual intimation and that the schedule was not

announced during the initial phase of allotment. According to him on account of the lapses of the 1st respondent he had no opportunity to know about the 2nd phase of counselling which was conducted on 08.08.2007, when candidates having rank Nos.5001 to 24999 were considered. It is submitted that several candidates having much lower rank than the petitioner were granted admission. It is further contended that even as of now, there are three vacancies and that in view of the ranking that he has secured, he is entitled to be accommodated against anyone of those three vacancies.

3. Petitioner further submits that soon after the 1st phase of counselling, on reaslising that there is no chance of getting admission, he had joined MEPCO SHCHELNK Engineering College, Sivakasi and that subsequently he got Ext.P7 transfer certificate and joined College of Engineering, Poonjar. Still later, he got transfer certificate from this College also and joined Toc H Institute of Science and Technology. It is stated that in anticipation of getting admission to MSc Photonics in the 1st respondent University, he obtained Ext.P4 Transfer Certificate from Toc H Institute of Science and Technology, and is presently awaiting admission. It is submitted that since he has lost all his avenues, on equitable grounds, he should be directed to be accommodated by the 1st respondent in any one of the vacant seats now available.

4. The University on the other hand will contend that admissions were granted from the common rank list

prepared for B. Tech and MSc Photonics and that among the candidates included in the common rank list, those who have opted for MSc Photonics were called for counselling. According to the University the separate ranking was maintained only for the information of the candidates of their relative position in the ranking.

5. In so far as the complaint of the petitioner that individual notice should have been given, the university submits that the candidates had to download their call letters from the website and in the Key Informations notified in the website it was specifically stated that counselling schedule / admission procedure/ list of candidates called for counselling and other details will be published only on the official website of the University and that no individual call letter will be sent. Ext.R1(a) is the key information notified by the 1st respondent.

6. In so far as the counselling schedule is concerned, the University would contend that it was published in the website sufficiently early and a press release was also issued, which was published in almost all leading news dailies. Exts.R1(b) & (c) are the news reports published in Malayala Manorama and Indian Express regarding the 2nd phase of counselling. Ext.R1(d) is the counselling schedule for the 2nd phase of counselling published in the website of the University. According to the 1st respondent in the 2nd phase of counselling which was over by 20.07.2007, a large number of students had turned up for

admission. It is submitted that the candidates for called for purely according to their merit and that the vacancy position was also published in the website and also displayed in a big LCD Screen installed at the Counselling Centre so that the students could also ascertain the vacancy position.

7. It is submitted that despite all this the petitioner did not report for the 2nd phase of counselling and admissions were closed on 20.07.2007 and this writ petition was filed only on 20.09.2007. It is also submitted that the total number of seats were 20, out of which 13 are earmarked for General Category and the balance for Reserved Category. According to the University candidates who have secured rank below the petitioner have secured admission and that as on date there is one vacancy in the general category and the remaining are vacancies earmarked for reserved category for which there is a waiting list. The 1st respondent has also produced Ext.R1(e) letter from the Director stating that since more than two months are over since starting of the Semester, students shall not be admitted to MSc Photonics even if some seats have gone vacant.

8. The main argument that was raised by the counsel for the writ petitioner is that the university ought to have given individual notice of the 2nd phase of counselling and in the absence of it, the failure of the petitioner to report for admission, cannot cause any prejudice to him.

It is also his contention that irrespective of all the controversies, the petitioner is liable to be admitted in one of the vacancies at least on equitable grounds.

9. This contention is opposed by the university vehemently. According to them they have complied with all the requirement and cannot be faulted for the petitioners failure to report for the 2nd phase of counselling. It is also submitted that even if there are vacancies, since classes have already started, fresh admission cannot be granted. On these pleadings, the question that arises for consideration whether the University was bound to give individual notice to the candidates for the 2nd phase of counselling, which commenced on 8th August 2007.

10. The procedure for admission including the manner in which the candidates are to be notified of the schedule of counselling are matters which are governed by the information notified by the university in its website. Ext.R1(a) itself makes it clear that the counselling schedule/ admission procedure/ list of candidates called for counselling and other details will be published only on the official website of the University and no individual call letter will be sent. The candidates also could seek assistance/ advice from the office of the 2nd Respondent.

11. In addition to this, University has published counselling schedule through newspapers and from Exts.R1(b) &(c) it is evident that on 01.08.2007 the newspapers did carry a notification regarding the 2nd phase of counselling.

The 2nd phase of counselling was also published in the website, as is evident from Ext.R1(d) web page produced by the University. Petitioner has not placed anything on record to indicate that the University was obliged to give individual notice to candidates. Thus, the University had given notifications in terms of Ext.R1(a) and had no obligation to give individual notice to candidates. If for reasons of his own, a candidate has failed to appear for the 2nd phase of counselling, the University cannot be faulted. Therefore, the petitioner's contention that the University committed an illegality in not giving individual notice to candidates like the petitioner is only to be rejected.

12. The other contention that is raised is that there are still vacancies and that the petitioner should be accommodated in any one of them. University does not dispute the availability of vacancies. It is submited that there is only one vacancy in the general category and that the remaining are in the earmarked for candidates belonging to reserved categories for which a wait list is maintained. University submits that the classes have started more than two months ago and that in view of this, it has been decided not to grant admission to any fresh student. For this purpose the university is relying on Ext.R1(e) order of the 2nd respondent. If the University has therefore taken a policy decision not to grant any further admission, irrespective of availability of the vacancies, I see

nothing wrong with such a decision. It may be that the University has taken such a decision, on account of the fact that delayed admission can only cause prejudice to the students' community. In any case that decision of the University is not under challenge. Therefore, there is no necessity to consider the correctness of the contention of the petitioner that the reserved vacancies will revert to the general candidates or that the petitioner should be accommodated against anyone of the vacancies now available. Even if petitioner is right in his submission, he cannot be granted any relief as the University has decided not to grant any further admission. Therefore, the submission that the petitioner is liable to be admitted to any one of the vacancies also lacks merits.

13. Petitioner has sought admission on equitable grounds as well. As already stated so far petitioner had joined three engineering colleges from where he has obtained Exts.P4, P7 & P8 Transfer Certificates and is presently stated to be not studying in any college. While, I have my sympathies with the petitioner, in view of the position as above, I am not in a position to grant any relief to him.

14. Writ petition fails and is dismissed.

ANTONY DOMINIC, JUDGE

pr/jan.